

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

VICTOR MARTINEZ,	:	
	:	
Petitioner	:	No. 1:15-CV-01073
	:	
vs.	:	(Judge Kane)
	:	
BRIAN V. COLEMAN, ET AL.,	:	
	:	
Respondents	:	

MEMORANDUM

Background

On June 1, 2015, Petitioner Victor Martinez filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) along with a motion to proceed in forma pauperis (Doc. 2). The information set forth in the motion to proceed in forma pauperis indicated that Martinez was not required to pay the filing fee and on September 21, 2015, he was granted in forma pauperis status. On November 9, 2015, the petition was given preliminary consideration and, for the reasons set forth in the order of the same date, the court directed Martinez to show cause in writing why his petition should not be dismissed without prejudice because there are ongoing state court criminal proceedings. The court incorporates the reasoning set forth in the order of November 9, 2015, by reference. Briefly the court notes that a review of state court records utilizing the Unified Judicial System Web portal revealed that there are ongoing proceedings in the Court of Common Pleas of Lebanon County, and even after those proceedings are concluded, Martinez would have a

right to seek review in the Superior Court. Martinez was advised that if he failed to show cause in writing on before December 16, 2015, why his petition should not be dismissed for failure to exhaust state court remedies, his petition would be dismissed for failure to prosecute and abide by a court order. Although the time for Martinez to show cause in writing has long passed, he has neither filed a response nor requested an extension of time within which to do so. The court concludes that Martinez has willfully declined to respond and abandoned the action and that he has failed to exhaust his state court remedies. Consequently, the court will dismiss the petition for failure to exhaust state court remedies.